

AMENDED IN SENATE AUGUST 27, 2001

CALIFORNIA LEGISLATURE—2001–02 SECOND EXTRAORDINARY SESSION

**ASSEMBLY BILL**

**No. 14**

**Introduced by Assembly Member Canciamilla**

May 16, 2001

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~~An act to amend Sections 216, 222, and 228 of the Public Utilities Act to add Section 216.6 to the Public Utilities Code, relating to public utilities.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 14, as amended, Canciamilla. Natural gas ~~supplies.~~

(1) ~~Existing law~~ *The Public Utilities Act* defines “public utility,” “gas corporation,” and “pipeline corporation” for purposes of the Public Utilities Act.

~~This bill would provide that the production, transportation, or sale of natural gas within this state by a corporation or person does not make the corporation or person a public utility, gas corporation, or pipeline corporation within the meaning of these definitions solely because of the production, transportation, or sale of natural gas, if the natural gas is of insufficient quality or heating value to make it acceptable for introduction into the line, plant, or system of a gas corporation or state or local agency, is not provided or sold to more than 5 end-users, including any use by the corporation or person, and the natural gas provided or sold to the end use customer is not resold by the end use customer.~~

~~The bill would require however, that a corporation or person that produces, transports, or sells natural gas within this state be subject to the jurisdiction of the Public Utilities Commission for compliance with~~

~~all safety, service quality, and consumer protection standards applicable to public utilities, and subject to certain surcharges imposed on natural gas consumed in this state.~~ amend the act to require nonutility grade natural gas providers, as defined, to notify the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation or the United States Department of Transportation of its intent to engage in, or cease, the selling of nonutility grade natural gas, as defined. The bill would subject natural gas sold or transported to end users by nonutility grade natural gas providers to specified provisions of existing law, and would require end users who consume nonutility grade natural gas provided by nonutility grade natural gas providers to notify the State Board of Equalization of their intent to consume that gas. The bill would require the Public Utilities Commission to ensure in rate allocation cases that any costs resulting from the bill do not result in an increase in costs to core customers of natural gas or to natural gas corporations. Because a violation of ~~an order by the commission is a crime under existing provisions of law~~ the act is a crime, this bill would impose a state-mandated local program by expanding the scope of a crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 216 of the Public Utilities Code is~~
- 2     SECTION 1. Section 216.6 is added to the Public Utilities
- 3     Code, to read:
- 4     216.6. (a) As used in this section, the following terms have
- 5     the following meanings:
- 6     (1) “Nonutility grade natural gas provider” means a person or
- 7     corporation meeting all of the following criteria:
- 8     (A) The corporation or person produces, sells, or transports
- 9     nonutility grade natural gas within this state for consumption by
- 10    end users.

1 (B) The corporation or person sells or transports that  
2 nonutility grade natural gas to no more than five end users,  
3 provided that the gas actually delivered to the end user is nonutility  
4 grade natural gas.

5 (C) The corporation or person uses a pipeline that complies  
6 with subparagraph (B) to serve end users other than the owner of  
7 the pipeline.

8 (2) “Nonutility grade natural gas” means natural gas that  
9 meets one or more of the following criteria:

10 (A) Natural gas that is delivered in the Pacific Gas and Electric  
11 Company service area and has a heating range of less than 970  
12 British thermal units (Btus) or more than 1150 Btus.

13 (B) Natural gas that is delivered in the Sempra Energy service  
14 area and has a heating range of less than 970 Btus or more than  
15 1250 Btus.

16 (C) The nonutility grade natural gas provider determines the  
17 natural gas is of insufficient quality to make it acceptable for  
18 introduction into the line, plant, or system of the gas corporation  
19 nearest the well producing that natural gas or to a state or local  
20 agency.

21 (3) “End user” means any person or corporation, other than  
22 the pipeline owner or its subsidiaries or affiliates, that purchases  
23 natural gas or natural gas transportation services from the  
24 nonutility grade natural gas provider for its own use and does not  
25 sell or resell or further transport the natural gas for use by another  
26 entity. A pipeline owner may not be considered an end user solely  
27 because of consumption of natural gas necessary for the operation  
28 of the pipeline.

29 (b) (1) To protect life, health, property, and natural resources,  
30 any pipeline transporting nonutility grade natural gas pursuant to  
31 this section owned or operated by a nonutility grade natural gas  
32 provider is subject to the jurisdiction of the following entities, as  
33 follows:

34 (A) The Division of Oil, Gas, and Geothermal Resources in the  
35 Department of Conservation, if the proprietary pipeline is located  
36 within the administrative boundaries of an oil field as defined by  
37 the Division of Oil, Gas, and Geothermal Resources.

38 (B) The United States Department of Transportation for  
39 compliance with Sections 190 to 193, inclusive, of Title 49 of the  
40 Code of Federal Regulations, if the proprietary pipeline is located

1 outside the jurisdiction of the Division of Oil, Gas, and  
2 Geothermal Resources.

3 (2) The nonutility grade natural gas provider shall notify the  
4 Division of Oil, Gas, and Geothermal Resources or the United  
5 States Department of Transportation, as applicable, of its intent to  
6 engage in the selling of nonutility grade natural gas or of its intent  
7 to cease the selling of that gas.

8 (3) Expansion of an existing proprietary natural gas pipeline  
9 for the sole purpose of serving end users does not make the existing  
10 pipeline subject to this section.

11 (c) Notwithstanding any other provision of law, natural gas  
12 sold or transported to end users by nonutility grade natural gas  
13 providers is subject to Article 10 (commencing with Section 890)  
14 of Chapter 4. For purposes of compliance with this division, end  
15 users who consume nonutility grade natural gas provided by  
16 nonutility grade natural gas providers shall notify the State Board  
17 of Equalization of their intent to consume that gas.

18 (d) Notwithstanding Section 216, 222, or 228, a nonutility  
19 grade natural gas provider providing service pursuant to this  
20 section is not a public utility, a gas company, or a gas pipeline  
21 within the meaning of this title solely because of the production,  
22 transportation, or sale of natural gas pursuant to this section.

23 (e) The commission shall ensure in rate allocation cases that  
24 any costs resulting from the implementation of this section do not  
25 result in an increase in costs to core customers of natural gas or  
26 to natural gas corporations.

27 amended to read:

28 216. ~~(a) "Public utility" includes every common carrier, toll~~  
29 ~~bridge corporation, pipeline corporation, gas corporation,~~  
30 ~~electrical corporation, telephone corporation, telegraph~~  
31 ~~corporation, water corporation, sewer system corporation, and~~  
32 ~~heat corporation, where the service is performed for, or the~~  
33 ~~commodity is delivered to, the public or any portion thereof.~~

34 ~~(b) Whenever any common carrier, toll bridge corporation,~~  
35 ~~pipeline corporation, gas corporation, electrical corporation,~~  
36 ~~telephone corporation, telegraph corporation, water corporation,~~  
37 ~~sewer system corporation, or heat corporation performs a service~~  
38 ~~for, or delivers a commodity to, the public or any portion thereof~~  
39 ~~for which any compensation or payment whatsoever is received,~~  
40 ~~that common carrier, toll bridge corporation, pipeline corporation,~~

1 ~~gas corporation, electrical corporation, telephone corporation,~~  
2 ~~telegraph corporation, water corporation, sewer system~~  
3 ~~corporation, or heat corporation, is a public utility subject to the~~  
4 ~~jurisdiction, control, and regulation of the commission and the~~  
5 ~~provisions of this part.~~

6 ~~(e) When any person or corporation performs any service for,~~  
7 ~~or delivers any commodity to, any person, private corporation,~~  
8 ~~municipality, or other political subdivision of the state, that in turn~~  
9 ~~either directly or indirectly, mediately or immediately, performs~~  
10 ~~that service for, or delivers that commodity to, the public or any~~  
11 ~~portion thereof, that person or corporation is a public utility subject~~  
12 ~~to the jurisdiction, control, and regulation of the commission and~~  
13 ~~the provisions of this part.~~

14 ~~(d) Ownership or operation of a facility that employs~~  
15 ~~cogeneration technology or produces power from other than a~~  
16 ~~conventional power source or the ownership or operation of a~~  
17 ~~facility which employs landfill gas technology does not make a~~  
18 ~~corporation or person a public utility within the meaning of this~~  
19 ~~section solely because of the ownership or operation of that~~  
20 ~~facility.~~

21 ~~(e) Any corporation or person engaged directly or indirectly in~~  
22 ~~developing, producing, transmitting, distributing, delivering, or~~  
23 ~~selling any form of heat derived from geothermal or solar~~  
24 ~~resources or from cogeneration technology to any privately owned~~  
25 ~~or publicly owned public utility, or to the public or any portion~~  
26 ~~thereof, is not a public utility within the meaning of this section~~  
27 ~~solely by reason of engaging in any of those activities.~~

28 ~~(f) The ownership or operation of a facility that sells~~  
29 ~~compressed natural gas at retail to the public for use only as a~~  
30 ~~motor vehicle fuel, and the selling of compressed natural gas at~~  
31 ~~retail from that facility to the public for use only as a motor vehicle~~  
32 ~~fuel, does not make the corporation or person a public utility~~  
33 ~~within the meaning of this section solely because of that~~  
34 ~~ownership, operation, or sale.~~

35 ~~(g) Ownership or operation of a facility that has been certified~~  
36 ~~by the Federal Energy Regulatory Commission as an exempt~~  
37 ~~wholesale generator pursuant to Section 32 of the Public Utility~~  
38 ~~Holding Company Act of 1935 (Chapter 2C (commencing with~~  
39 ~~Section 79) of Title 15 of the United States Code) does not make~~

~~a corporation or person a public utility within the meaning of this section, solely due to the ownership or operation of that facility.~~

~~(h) The ownership, control, operation, or management of an electric plant used for direct transactions or participation directly or indirectly in direct transactions, as permitted by subdivision (b) of Section 365, sales into the Power Exchange referred to in Section 365, or the use or sale as permitted under subdivisions (b) to (d), inclusive, of Section 218, shall not make a corporation or person a public utility within the meaning of this section solely because of that ownership, participation, or sale.~~

~~(i) The production, transportation, or sale of natural gas within this state by a corporation or person does not make the corporation or person a public utility within the meaning of this section solely because of the production, transportation, or sale of natural gas, if all of the following conditions exist:~~

~~(1) The natural gas is of insufficient quality or heating value to make it acceptable for introduction into the line, plant, or system of a gas corporation or state or local agency.~~

~~(2) The natural gas is not provided or sold to more than five end users, including any use by the corporation or person.~~

~~(3) The natural gas provided or sold to an end use customer is not resold by the end use customer.~~

~~(j) A corporation or person described in subdivision (i) is subject to the jurisdiction of the commission for compliance with all utility safety, service quality, and consumer protection standards applicable to public utilities as defined in subdivision (a) of Section 216.~~

~~(k) Subdivision (i) may not result in any shift of costs to core customers of gas corporations.~~

~~SEC. 2. Section 222 of the Public Utilities Code is amended to read:~~

~~222. (a) "Gas corporation" includes every corporation or person owning, controlling, operating, or managing any gas plant for compensation within this state, except where gas is made or produced on and distributed by the maker or producer through private property alone solely for his or her own use or the use of his or her tenants and not for sale to others.~~

~~(b) "Gas corporation" shall not include a corporation or person employing landfill gas technology for the production of gas for its own use or the use of its tenants or for sale to a gas corporation or~~

1 ~~state or local public agency, except that if the gas produced is of~~  
2 ~~insufficient quality or heating value that it is unacceptable for~~  
3 ~~introduction into the line, plant, or system of a gas corporation or~~  
4 ~~state or local public agency, the person or corporation employing~~  
5 ~~landfill gas technology may without becoming a gas corporation~~  
6 ~~for purposes of this part sell the gas so produced to not more than~~  
7 ~~four other corporations or persons.~~

8 ~~(c) The production of natural gas within this state by a~~  
9 ~~corporation or person does not make the corporation or person a~~  
10 ~~gas corporation within the meaning of this section solely because~~  
11 ~~of the production of natural gas, if all of the following conditions~~  
12 ~~exist:~~

13 ~~(1) The natural gas is of insufficient quality or heating value to~~  
14 ~~make it acceptable for introduction into the line, plant, or system~~  
15 ~~of a gas corporation or state or local agency.~~

16 ~~(2) The natural gas is not provided or sold to more than five end~~  
17 ~~users, including any use by the corporation or person.~~

18 ~~(3) The natural gas provided or sold to an end use customer is~~  
19 ~~not resold by the end use customer.~~

20 ~~(d) A corporation or person described in subdivision (c) is~~  
21 ~~subject to the jurisdiction of the commission for compliance with~~  
22 ~~all utility safety, service quality, and consumer protection~~  
23 ~~standards applicable to public utilities as defined in subdivision (a)~~  
24 ~~of Section 216.~~

25 ~~(e) Subdivision (c) may not result in any shift of costs to core~~  
26 ~~customers of gas corporations.~~

27 ~~SEC. 3. Section 228 of the Public Utilities Code is amended~~  
28 ~~to read:~~

29 ~~228. (a) "Pipeline corporation" includes every corporation~~  
30 ~~or person owning, controlling, operating, or managing any~~  
31 ~~pipeline for compensation within this state.~~

32 ~~(b) "Pipeline corporation" shall not include a corporation or~~  
33 ~~person employing landfill gas technology and owning,~~  
34 ~~controlling, operating, or managing any pipeline solely for the~~  
35 ~~transmission or distribution of landfill gas or other form of energy~~  
36 ~~generated or produced therefrom.~~

37 ~~(c) The transportation of natural gas within this state by a~~  
38 ~~corporation or person does not make the corporation or person a~~  
39 ~~pipeline corporation within the meaning of this section solely~~



1 because of the transportation of natural gas, if all of the following  
2 conditions exist:

3 (1) The natural gas is of insufficient quality or heating value to  
4 make it acceptable for introduction into the line, plant, or system  
5 of a gas corporation or state or local agency.

6 (2) The natural gas is not provided or sold to more than five end  
7 users, including any use by the corporation or person.

8 (3) The natural gas provided or sold to an end use customer is  
9 not resold by the end use customer.

10 (d) A corporation or person described in subdivision (c) is  
11 subject to the jurisdiction of the commission for compliance with  
12 all utility safety, service quality, and consumer protection  
13 standards applicable to public utilities as defined in subdivision (a)  
14 of Section 216.

15 (e) Subdivision (c) may not result in any shift of costs to core  
16 customers of gas corporations.

17 (f) Natural gas provided or sold to end users pursuant to  
18 subdivision (c) is subject to Article 10 (commencing with Section  
19 890) of Chapter 4. For purposes of complying with Article 10  
20 (commencing with Section 890) of Chapter 4, all persons  
21 consuming natural gas pursuant to subdivision (c) shall be treated  
22 as if the gas that is consumed was delivered by an interstate  
23 pipeline. However, the exemption for gas transported on  
24 proprietary pipelines contained in Section 896 does not apply to  
25 gas transported pursuant to subdivision (c).

26 ~~SEC. 4.—~~

27 *SEC. 2.* No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution because  
29 the only costs that may be incurred by a local agency or school  
30 district will be incurred because this act creates a new crime or  
31 infraction, eliminates a crime or infraction, or changes the penalty  
32 for a crime or infraction, within the meaning of Section 17556 of  
33 the Government Code, or changes the definition of a crime within  
34 the meaning of Section 6 of Article XIII B of the California  
35 Constitution.

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